

JERALD D. LEDBETTER

IBLA 81-719

Decided July 15, 1981

Appeal from decision of California State Office, Bureau of Land Management, declaring mining claim abandoned and void. CA MC 32608.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

APPEARANCES: Jerald D. Ledbetter, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Jerald D. Ledbetter has appealed from the May 13, 1981, decision of the California State Office, Bureau of Land Management (BLM), which declared the Four Points lode mining claim, CA MC 32608, abandoned and void for failure to file on or before December 30, 1980, evidence of assessment work or notice of intention to hold the unpatented mining claim, as required by section 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744(a) (1976), and the implementing regulations in 43 CFR 3833.2-1(a).

In his statement of reasons for the appeal, appellant states he simply forgot to mail the proof of labor to BLM, and enclosed a copy of the proof of annual labor recorded July 31, 1980, in the official records of San Diego County, California.

[1] The above-cited statute and regulations impose a conclusive presumption of mining claim abandonment for any failure to file the required instruments in the proper BLM office by the date on which they are due. The Board has no authority to excuse lack of compliance with the statute or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981). Appellant should confer with BLM about the possibility of relocating his claim.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

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Douglas E. Henriques  
Administrative Judge

We concur:

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Bernard V. Parrette  
Chief Administrative Judge

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Gail M. Frazier  
Administrative Judge